

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 31028 of 2015 (C)

PETITIONER(S):

**OSRAM INDIA PVT. LTD., NO.333/2469, F-4,
DEVI BUILDINGS, LABOUR COLONY ROAD,
THAMMANAM P.O., ERNAKULAM-682 032,
REPRESENTED BY ITS MANAGER,
SRI.NANDAKUMAR.**

BY ADV. SRI.P.R.VENKETESH.

RESPONDENT(S):

- 1. THE INSPECTING ASST. COMMISSIONER (INTELLIGENCE),
COMMERCIAL TAXES, THEVARA, ERNAKULAM-682 015.**
- 2. THE INTELLIGENCE OFFICER,
DEPARTMENT OF COMMERCIAL TAXES,
SQUAD-III, THEVARA, ERNAKULAM-682 015.**
- 3. RCPL LOGISTICS PVT. LTD.,
B-151, KARSHAKA LANE, ERNAKULAM-682 016.**

R1 & R2 BY GOVT. PLEADER SRI.LIJU V.STEPHEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE INVOICE DATED 03/10/2015 ISSUED BY THE
PETITIONER'S CENTRAL WAREHOUSE TO ERNAKULAM BRANCH.
- EXT.P2 COPY OF THE DECLARATION IN FORM 8FA DATED 03/10/2015.
- EXT.P3 COPY OF THE NOTICE IN FORM NO.17A DATED 06/10/2015
ISSUED BY THE INTELLIGENCE OFFICER, SQUAD-III TO THE
PETITIONER.
- EXT.P4 COPY OF THE DOCKET/CONSIGNMENT NOTE ISSUED BY THE
4TH RESPONDENT SHOWING DATE OF BOOKING OF THE GOODS
AS 03/10/2015 BY TRAIN.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31028 OF 2015 (C)

Dated this the 12th day of October, 2015

J U D G M E N T

The petitioner, who is a registered dealer under the KVAT Act, is aggrieved by Ext.P3 notice issued to him, detaining a consignment of electrical goods, that was being transported at the instance of the petitioner by rail. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondents is essentially that in

the declaration filed by the petitioner, the date of clearing was shown as 3.10.2015, whereas the goods were cleared from the South Railway Station only on 6.10.2015. The respondents therefore suspected multiple transportation using the same document. Counsel for the petitioner would refer to Ext.P2 declaration in Form 8FA to show that the entry of date of clearing as 3.10.2015 was a mistake since the date on the invoice itself was 3.10.2015. The goods were consigned from Gurgaon to Cochin, and therefore, it is obvious that the mention of 3.10.2015 itself as the date of clearing, is a mistake. It is also submitted by counsel for the petitioner that the petitioner is a registered dealer within the State, and the transportation of the goods was accompanied by valid documents under the KVAT Act. Taking note of the said submission, I direct the 1st and 2nd respondents to release the goods to the petitioner subject to the petitioner furnishing a simple bond without sureties for the security deposit demanded in Ext.P3 notice, before the 1st and 2nd respondents.

(ii) The 1st and 2nd respondents shall thereafter transmit the files to the adjudicating authority, who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment, untrammelled by the observations in this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st and 2nd respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp